

Message Text

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C O R R E C T E D C O P Y (MRN 1108 VICE 2008)

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SUBJECT: ILLEGITIMATE CHILDREN OF FATHERS UNDER SECTION
101(B)(1)(B) - 22 CFR 42.1, NOTE 2.3

REF: MONTREAL 1085

1. IN ATTEMPT TO OBTAIN INFORMATION RE CANADIAN LAWS
RE ESTABLISHING PATERNITY, WE COMMUNICATED WITH LOCAL
LAW FIRM THAT HAS OFTEN BEEN OF ASSISTANCE. REPLY QUOTED
BELOW IN ENTIRETY OMITTING NONESSENTIAL WORDS:

2. QUOTE: WE HAVE BEEN ASKED THE FOLLOWING QUESTIONS:

A. HOW CAN PATERNAL RELATIONSHIP TO ILLEGITIMATE CHILD
BE ESTABLISHED BY CHILD'S FATHER?

B. IF CANADIAN ADMITS PATERNITY AND ALLOWS HIS NAME
APPEAR ON BIRTH CERTIFICATE, DOES THIS BY ITSELF ESTABLISH
FILIAION?

∴ WHAT ARE THE JUDICIAL AND ADMINISTRATIVE PROCESSES
NECESSARY TO ESTABLISH RELATIONSHIP OF FATHER AND CHILD
WHEN YOU ARE DEALING WITH AN ILLEGITIMATE CHILD?

A. IN MY OPINION PATERNITY OF FATHER IS ESTABLISHED IF
FATHER MARRIES THE MOTHER OF CHILD.

ARTICLE 237 CIVIL CODE STATES: CHILDREN BORN OUT OF
MARRIAGE, OTHER THAN ISSUE OF INCESTUOUS CONNECTION,
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ARE LEGITIMATED BY SUBSEQUENT MARRIAGE OF THEIR FATHER

AND MOTHER.

B. THE BIRTH CERTIFICATE BY ITSELF DOES NOT PROVE FILIATION. IT ONLY PROVES PARTURITION OF OF WOMAN FROM WHOM CHILD IS DECLARED TO HAVE ISSUED. BIRTH CERTIFICATE NOT ISSUED TO PROVE PATERNITY, NOR IS IT DESIGNED TO PROVE MARRIAGE. THUS, BIRTH CERTIFICATE HAS NO PROBATIVE VALUE OTHER THAN TO ESTABLISH THAT A CHILD HAS BEEN BORN; OF COURSE IT ALSO ESTABLISHES IDENTITY OF MOTHER. (MVC 1975 SUPERIOR COURT 1975 PAGE 735).

C. IF FATHER MARRIES WOMAN OTHER THAN MOTHER OF CHILD, THEN HE CAN, WITH CONSENT OF NATURAL MOTHER OF CHILD AND BY HAVING HIS WIFE JOIN HIM IN APPLICATION, APPLY TO SOCIAL WELFARE COURT TO ADOPT CHILD. CHILD WILL THEN BE DEEMED TO BE ISSUE OF FATHER AND HIS PRESENT WIFE.

ANOTHER METHOD OF ESTABLISHING FILIATION IS BY REFERENCE TO TITLE DEEDS OF FAMILY, REGISTERS AND PAPERS OF FATHER AND MOTHER, OR FROM PUBLIC AND EVEN PRIVATE WRITINGS PROCEEDING FROM PARTY WHO HAS INTEREST IN ESTABLISHING THAT FATHER IS INDEED THE FATHER OF CHILD.

ASIDE FROM FOREGOING THERE ARE NO OTHER JUDICIAL OR ADMINISTRATIVE PROCEEDINGS WHICH WOULD ANSWER THE QUESTION OR RESOLVE THE PROBLEM. END QUOTE
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